



REQUEST REPLY BY 3/29/99

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

COMSECY-99-007

March 12, 1999

MEMORANDUM TO: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: William D. Travers 
Executive Director for Operations

SUBJECT: NOTICE OF INTENT TO SHIP LOW-LEVEL DECOMMISSIONING
WASTE FROM THE LAKE CITY ARMY AMMUNITION PLANT TO
WASTE CONTROL SPECIALISTS' FACILITY IN ANDREWS, TEXAS

The purpose of this memorandum is to inform the Commission of the Department of the Army's (hereafter the Army's or the licensee's) intent to ship low-level decommissioning waste generated at its Lake City Army Ammunition Plant (LCAAP) in Independence, Missouri, to the Waste Control Specialists' (WCS') facility in Andrews, Texas, for disposal. The licensee, by letter dated January 21, 1999 (Attachment 1), informed the staff that the Army plans to ship this low-level decommissioning waste to WCS under the provisions of 10 CFR 40.51(b)(4). This waste is estimated to be 850 cubic meters (30,000 cubic feet) of soil, from the Area 10 decommissioning effort, that contains an average of less than 9.25 becquerels per gram (250 picocuries per gram, less than 0.05 percent by weight) of depleted uranium and 12 parts per million of leachable lead. Because of the elevated level of leachable lead in this material, it must be considered mixed waste, the disposal of which is significantly more costly than low-level waste. Since the disposal cost at WCS will be significantly less expensive than at the Envirocare site in Clive, Utah, the licensee wants to ship its mixed waste to WCS rather than to the Envirocare site proposed in the LCAAP Area 10 Decommissioning Plan.

Currently, two-thirds of this waste [approximately 566 cubic meters (20,000 cubic feet)] are stored at LCAAP. The remaining one-third [approximately 283 cubic meters (10,000 cubic feet)] are currently being stored at the Envirocare facility. This material was shipped to the Envirocare facility in October 1998 for disposal, placed in the disposal cell, and later rejected after Envirocare testing indicated that the material failed the toxicity characteristic leaching procedure for lead. The material at Envirocare has since been removed from the disposal cell and repackaged for shipment back to the Army.

CONTACT: Stewart W. Brown, NMSS/DWM
(301) 415-6605

The staff requested the licensee to delay shipment to WCS pending NRC review. The licensee responded by letter dated March 5, 1999 (Attachment 2), stating that delaying shipments beyond March 19, 1999 would cost several hundred thousand dollars and that shipments would begin by that date. In accordance with the Staff Requirements Memorandum (SRM) dated December 17, 1998 (Attachment 3) regarding the Metcoa case, the staff has determined that the Army's proposed disposal is enveloped by the zircon sand disposal scenario presented in the Oak Ridge National Laboratory draft report, "Systematic Radiological Assessment of Exemptions for Source and Byproduct Material." Therefore, the staff plans to notify the Army prior to March 19, 1999 that the staff has no objection to the proposed shipment to WCS, to the extent the waste meets the criteria in 10 CFR 40.13(a).

In the SRM dated February 2, 1999 (Attachment 4), the Commission directed the staff to provide its recommendations for a more risk-informed and coherent set of requirements for licensing source material in 10 CFR Part 40, including possible revisions to 10 CFR 40.13(a). In the meantime, unless otherwise directed, the staff plans to: (1) not object to future proposed waste shipments from any licensee, without notifying the Commission, if the proposals meet the guidance in the SRM dated December 17, 1998; and (2) notify the Commission of other proposals which do not meet the guidance in the SRM dated December 17, 1998.

SECY, please track.

Attachments:

1. Ltr. dated 1/21/99, Notice of Army's Plans to ship Low-Level Waste
2. Ltr. dated 3/5/99, Notice of Army's Plans to Begin Shipment by March 19, 1999
3. Memo dated 12/17/98, Staff Requirements - COMSECY-98-022
4. Memo dated 2/2/99, Staff Requirements - COMSECY-98-022

cc: SECY
OGC
OCA
OPA
OIG
CFO
CIO



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY INDUSTRIAL OPERATIONS COMMAND
ROCK ISLAND, ILLINOIS 61299-6000

January 21, 1999

REPLY TO
ATTENTION OF

Safety/Rad Waste Team

Mr. John Hickey
Chief, Low-Level Waste and
Decommissioning Projects Branch
U.S. Nuclear Regulatory Commission
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards
Washington, D.C. 20555-0001

Dear Mr. Hickey:

The purpose of this correspondence is to notify you of our intent to ship the Lake City Army Ammunition Plant decommissioning waste to the Waste Control Specialists facility in Andrews, Texas. We have an estimated 30,000 cubic feet of soil from the Area 10 decommissioning effort that contains an average of less than 250 pCi/g of depleted uranium and 12 parts per million leachable lead. Because of the unanticipated elevated lead levels, treatment and disposal at the intended disposal facility has become cost prohibitive. Our decommissioning contractor has identified Waste Control Specialists as an immediately viable, cost-effective alternative.

We intend to transfer our Nuclear Regulatory Commission licensed (SUC-1380) material to Waste Control Specialists in accordance with the provisions of Title 10, Code of Federal Regulations, part 40.51(b)(4). Under State of Texas law, Waste Control Specialists can accept source material that meets the requirements for exempt material as defined in 25 Texas Administrative Code, Section 285.251(c)(1), which is the Texas Agreement State counterpart to Title 10, Code of Federal Regulations, part 40.13(a). We understand that, with respect to the transfer of a

ATTACHMENT 1

similar waste stream from the METCOA site (Pulaski, Pennsylvania), the Commission ruled that there are no specific Nuclear Regulatory Commission approval requirements. Furthermore, we understand that the Commission did not require the licensee to manifest the material in accordance with Title 10, Code of Federal Regulations, part 20.2006.

There are State of Missouri Department of Natural Resources and Environmental Protection Agency Resource Conservation Recovery Act regulations that require us to remove the material from Lake City in a timely manner. In addition, delaying a disposition decision is creating a financial strain on the Army's Low-Level Radioactive Waste Program. A portion of the on-site material is containerized in rented inter-modal shipping containers, which is costing the Army \$12,000 per month. If forced to ship the Lake City material to Envirocare for treatment and disposal, we would expend an estimated \$3.3 million, which is 70 percent of the entire U.S. Army low-level radioactive waste disposal budget. Therefore, unless there are objections on the part of the Commission, we intend to ship the waste to Waste Control Specialists as early as March 1, 1999.

Our point of contact is Mr. Michael Styvaert, Health Physicist, AMSIO-SF, (309) 782-0880, electronic mail address StyvaertM@ioc.army.mil.

Sincerely,



for Rosalene E. Graham
Chief, Safety/Rad Waste Team

Copy Furnished:

Lieutenant Colonel Richard Thibodeau, Commander,
Lake City Army Ammunition Plant, Independence,
Missouri 64051-0330

Commander, Lake City Army Ammunition Plant, Attention:
SIOLC-EN/Mr. William Melton, Mr. Gary Kelso,
Independence, Missouri 64051-0330

Commander, Lake City Army Ammunition Plant, Attention:
SIOLC-SF/Ms. Cindy Park, Safety Officer,
Independence, Missouri 64051-0330

U.S. Environmental Protection Agency, Attention:
Mr. Scott Marquess, Project Manager, Region VII,
Federal Facilities and Special Emphasis Branch,
Superfund Division, 726 Minnesota Avenue, Kansas
City, Kansas 66101

State of Missouri, Department of Natural Resources,
Hazardous Waste Program, Mr. Don Kerns, 1730 East
Elm Street, Jefferson City, Missouri 65101

Commander, U.S. Army Industrial Operations Command,
Attention: AMSIO-ACE-D/Mr. Bob Matthys, AMSIO-EQE/
Mr. Tim Howard, AMSIO-GC/Mr. Tom Jackson, Rock
Island, Illinois 61299-6000

U.S. Nuclear Regulatory Commission, Region III,
Attention: Mr. David Nelson, Decommissioning
Branch, Lisle, Illinois 60532

U.S. Nuclear Regulatory Commission, Office of Nuclear
Material Safety and Safeguards, Division of Waste
Management, Low-Level Waste and Decommissioning
Projects Branch, Attention: Mr. Stewart Brown,
Mr. Tim Johnson, Washington, D.C. 20555-0001



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY INDUSTRIAL OPERATIONS COMMAND
ROCK ISLAND, ILLINOIS 61299-3000



REPLY TO
ATTENTION OF

March 5, 1999

Safety/Rad Waste Team

OPTIONAL FORM 39 (7-90)

FAX TRANSMITTAL

of pages **B 2**

To <i>Stewart Brown</i>	From <i>MIKE STURVEST</i>
Dept./Agency <i>HQ, NRC</i>	Phone # <i>(309) 782-0880</i>
Fax # <i>(301) 415-5398</i>	Fax # <i>(309) 782-2988</i>
NSN 7540-01-317-7368	5010-101 GENERAL SERVICES ADMINISTRATION

Mr. Stewart Brown
U.S. Nuclear Regulatory Commission
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards
Washington, D.C. 20555-0001

Dear Mr. Brown:

This correspondence is in response to your letter dated March 3, 1999, requesting that we delay our plans to ship the Lake City Army Ammunition Plant decommissioning waste to Waste Control Specialists. On January 21, 1999, we notified you in writing of our intent to ship the estimated 30,000 cubic feet of Lake City waste to the Waste Control Specialists facility in Andrews, Texas. Under Nuclear Regulatory Commission regulations, this is allowable.

Delaying our shipments to Waste Control Specialists beyond March 19, 1999, will increase the disposal cost by several hundred thousand dollars. To make the shipments by then, we must start transportation arrangements no later than March 12, 1999.

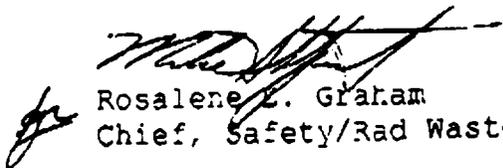
The State of Missouri Department of Natural Resources and the Environmental Protection Agency insist that we cannot return the waste to Lake City, since Envirocare actually placed it in their low-level radioactive waste cell in Clive, Utah.

Therefore, we will begin shipments by March 19, 1999.

-2-

The point of contact is Mr. Michael Styvaert,
AMSIO-SF, (309) 782-0880, electronic mail address
amsio-sf@ioc.army.mil.

Sincerely,



Rosalene L. Graham

Chief, Safety/Rad Waste Team

Copy Furnished:

Lieutenant Colonel Richard Thibodeau, Commander,
Lake City Army Ammunition Plant, Independence,
Missouri 64051-0330
Commander, Lake City Army Ammunition Plant, Attention:
SIOLC-EN/Mr. William Melton, Mr. Gary Kelso,
Independence, Missouri 64051-0330
Commander, Lake City Army Ammunition Plant, Attention:
SIOLC-SF/Ms. Cindy Park, Safety Officer,
Independence, Missouri 64051-0330
U.S. Environmental Protection Agency, Attention:
Mr. Scott Marquess, Project Manager, Region VII,
Federal Facilities and Special Emphasis Branch,
Superfund Division, 726 Minnesota Avenue, Kansas
City, Kansas 66101
State of Missouri, Department of Natural Resources,
Hazardous Waste Program, Mr. Don Kerns, 1730 East
Elm Street, Jefferson City, Missouri 65101
Commander, U.S. Army Industrial Operations Command,
Attention: AMSIO-ACE-D/Mr. Bob Matthys, AMSIO-EQE/
Mr. Tim Howard, AMSIO-GC/Mr. Tom Jackson, Rock
Island, Illinois 61299-6000
U.S. Nuclear Regulatory Commission, Region III,
Attention: Mr. David Nelson, Decommissioning
Branch, Lisle, Illinois 60532
U.S. Nuclear Regulatory Commission, Office of Nuclear
Material Safety and Safeguards, Division of Waste
Management, Low-Level Waste and Decommissioning
Projects Branch, Attention: Mr. Tim Johnson,
Washington, D.C. 20555-0001



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 17, 1998

OFFICE OF THE
SECRETARY

MEMORANDUM TO

William D. Travers
Executive Director for Operations

Karen D. Cyr
General Counsel

Dennis K. Rathbun, Director
Office of Congressional Affairs

FROM:

John C. Hoyle
John C. Hoyle, Secretary

SUBJECT:

STAFF REQUIREMENTS - COMSECY-98-022 - PROPOSAL TO
PERMANENTLY DISPOSE OF "UNIMPORTANT QUANTITIES"
OF SOURCE MATERIAL WITHOUT A LICENSE PURSUANT TO
10 CFR 40.13(a)

The Commission has disapproved the staff's proposed approach to Waste Control Specialists' (WCS) proposal. Unless the staff can assert that the zircon sand disposal scenario presented in the draft Oak Ridge National Laboratory Report, entitled "Systematic Radiological Assessment of Exemptions for Source and Byproduct Material," does not bound the radiological consequences associated with the proposed disposal, the staff and the Office of the General Counsel should inform WCS counsel that Metcoa may transfer the material for disposal to a RCRA site without any specific approval from the NRC and the material need not be manifested under Part 20.

(EDO)

(SECY Suspense:

12/24/98)

The staff should inform Senators Domenici and Specter of the Commission's decision in this matter.

(EDO/OCA)

(SECY Suspense:

12/24/98)

The Commission will provide the staff further guidance on the generic issues related to 10 CFR Part 40 in a subsequent SRM

The staff should provide the Commission a paper on the past uses of 10 CFR 40.14(a) and analysis of its further use.

(EDO/OGC)

(SECY Suspense:

5/22/99)

SECY NOTE:

THIS PAPER CONTAINS SENSITIVE INFORMATION AND WILL BE LIMITED TO NRC UNLESS THE COMMISSION DETERMINES OTHERWISE.



OFFICE OF THE SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 2, 1999

Action: ~~Paperiello~~, NMSS
Cys: Travers
Knapp
Miraglia
Norry
Blaha
Lohaus, SP
Schroll, SECY

MEMORANDUM TO: William D. Travers
Executive Director for Operations

Karen D. Cyr
General Counsel

FROM: Annette L. Vietti-Cook, Secretary *Annette Vietti-Cook*

SUBJECT: STAFF REQUIREMENTS - COMSECY-98-022 - PROPOSAL TO PERMANENTLY DISPOSE OF "UNIMPORTANT QUANTITIES" OF SOURCE MATERIAL WITHOUT A LICENSE PURSUANT TO 10 CFR 40.13(a)

The staff should finalize the Oak Ridge National Laboratory report, "Systematic Radiological Assessment of Exemption for Source and Byproduct Material," the Materials Risk Assessment, and the contractor report entitled "Options Paper on Exemption in 10 CFR Part 40 for <0.05% Source Material." The staff should also ensure that any insights gained in these assessments are incorporated into its development of the clearance rule. Based on these reports and assessments, the staff should provide its recommendation to the Commission for developing a more risk-informed and coherent set of requirements for licensing source material in 10 CFR Part 40, including possible revisions to 10 CFR 40.13(a). A comprehensive rulemaking plan as required by Management Directive 6.3 is not necessary. Rather, the staff should provide options for Commission consideration on how to proceed to address the jurisdictional and technical issues associated with regulating source material, exclusive of uranium recovery operations which is being addressed in a separate rulemaking. In considering the need for revision to the regulations, staff should also consider how to minimize duplication in regulatory authority over source material between NRC under the Atomic Energy Act, the States under State law, and the Environmental Protection Agency under various Federal statutes.

(EDG) (NMSS) (SECY Suspense: 9/30/99) 199800203
9/23/99

SECY NOTE: THIS PAPER CONTAINS SENSITIVE INFORMATION AND WILL BE LIMITED TO NRC UNLESS THE COMMISSION DETERMINES OTHERWISE.